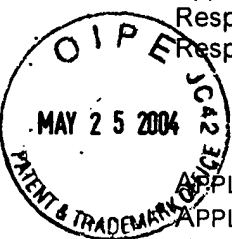


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Attorney Docket No., 71286.010110.

Appl. No. 09/781,491  
Response dated May 25, 2004  
Resp. to Office Action of November 25, 2003



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPL. NO. : 09/781,491  
APPLICANT : Clouatre, *et al.*  
TITLE : Methods and Pharmaceutical Preparations for Normalizing Blood  
Pressure with (-)-Hydroxycitric Acid  
EXAMINER : Dwayne C. Jones  
ART UNIT : 1614  
DOCKET NO. : 71286.010110

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE TO OFFICE ACTION**

Sir:

This paper is filed in response to the November 25, 2003 Office Action made final in the above-identified application. Applicants file concurrently herewith, a Declaration of Prior Invention Under 37 C.F.R. § 1.131; a Revocation/New Power of Attorney for Patent Under 37 C.F.R. § 3.73(b); a copy of an Assignment for the above-identified patent application dated as of January 14, 2004; a Petition for Change of Correspondence Address Under 37 C.F.R. § 1.33(b)(1); a Notice of Appeal; and a petition for a three (3) month extension of time. The Commissioner is hereby authorized to charge the fee of \$475.00 due for a five (3) month extension of time and \$165.00 filing fee for the Notice of Appeal, as well as any additional fee due with this submission, or credit any overpayment, to Deposit Account No. 50-2678, Ref. No. 71286.010110. With the extension, these documents are due on or before Tuesday, May 25, 2004.

**Information Disclosure Statement**

The Office indicated that the Applicants have not properly presented the Lowenstein reference in an Information Disclosure Statement. Applicants respectfully direct the Office's attention to their acknowledgment of the disclosure of US Patent No. 3,764,692 by Lowenstein in an Information Disclosure Statement included with an Office Action dated as of January 31, 2002 (Paper No. 5).

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### **35 U.S.C. §102(e)**

Claim 1 and claim 2 are rejected under 35 U.S.C. § 102(e) as being anticipated by Shrivastava *et al.*, U.S. Patent No. 6,221,901 (hereinafter, "Shrivastava"). The Examiner identifies the 102(e) date of this reference as April 22, 1999.

Applicants submit herewith a Declaration of Prior Invention Under 37 C.F.R. § 1.131. As detailed in the Declaration, the Applicants were in possession of the invention which is the subject of Applicant's above-identified patent application prior to April 22, 1999. Accordingly, the Applicants traverse the Office's rejection of claim 1 and claim 2 under 35 U.S.C. § 102(e). For this reason, the Office's rejection of claim 1 and claim 2 under 35 U.S.C. § 102(e) is moot. The Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §102(e) rejection.

### **35 U.S.C. §103**

The Office states two rejections under 35 U.S.C. §103(a) of claims of the Applicants' above-identified patent application.

#### **Shrivastava in view of Solomons and McMurry**

Claims 1 and 4-8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Shrivastava in view of Solomons and McMurry. As noted above, Applicants have provided a Declaration of Prior Invention Under 37 C.F.R. § 1.131 demonstrating possession of the invention which is the subject of the above-identified patent application prior to the 35 U.S.C. § 102(e) date of Shrivastava. Therefore, Shrivastava does not render claims 1 and 4-8, drawn to a method for treating or ameliorating hypertension or high blood pressure in a subject with (-)-hydroxycitric acid, or derivatives thereof, unpatentable for obviousness. Furthermore, Solomons and McMurry alone or in combination do not teach the use of (-)-hydroxycitric acid, or its derivatives, for the treatment or amelioration of hypertension. For these reasons, the Office's rejection of claims 1 and 4-8 as being unpatentable over Shrivastava in view of Solomons and McMurry under 35 U.S.C. § 103(a) is moot.

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**Shrivastava in view of Solomons and McMurry and in further view of DiPiro**

Claims 1-18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Shrivastava in view of Solomons and McMurry and in further view of DiPiro. Shrivastava does not render obvious claims (e.g., claims 1-18) drawn to methods for treating or amelioration hypertension or high blood pressure in a subject with (-)-hydroxycitric acid, or derivatives thereof because, as noted above, Applicants were in prior possession of the invention (see Applicants' Declaration of Prior Invention Under 37 C.F.R. § 1.131). Furthermore, Solomons, McMurry and DiPiro, alone, or in combination, do not teach the use of (-)-hydroxycitric acid, or its derivatives, for the treatment or amelioration of hypertension. For these reasons, the Office's rejection of claims 1-18 as being unpatentable over Shrivastava in view of Solomons and McMurry and in further view of DiPiro under 35 U.S.C. § 103(a) is moot.

Taken together, Applicants traverse both of the Office's rejections under 35 U.S.C. § 103(a). The Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §103(a) rejections.

**CONCLUSION**

Applicants respectfully submit that the pending claims are in condition for allowance. If there are any questions the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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Date: May 25, 2004